

## MEMORANDUM

**To:** Matt Carpenter, ADOT  
Manuel Tapia, Jr., City of Nogales

**From:** David Fields

**Date:** April 25, 2006

**Subject:** Nogales Transit Study - Subtask 1-E: Review of Title VI Requirements

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### **I. Introduction**

In order to adequately plan and prepare for the potential implementation of a new transit system to serve Nogales, Arizona, and with the intention of pursuing Federal transit support to fund this initiative, the Project Team conducted a literature review of Title VI of the Civil Rights Act of 1964, to determine applicability to new transit services. This memorandum documents the specific requirements applicable to receiving federal funding for use in the implementation of transit services. The requirements presented in the memorandum are a summary of the Title VI regulations issued by the Department of Justice (DOJ) (28 CFR Part 42) and the U.S. Department of Transportation (DOT) (49 CFR Part 21) and guidance established by the Urban Mass Transportation Administration (now the Federal Transit Administration (FTA)) in Circular #UMTA C 4702.1, published May 26, 1988. The complete circular is included as an Appendix to this memorandum. Note: Only the requirements that are applicable to providers serving populations of less than 200,000 persons are included in this memorandum.

### **II. Title VI of the Civil Rights Act of 1964**

Section 601 of Title VI of the Civil Rights Act of 1964 states the following:

*"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."*

Therefore, it is the responsibility of the FTA to ensure that the benefits generated by federally supported transit services are distributed in a manner consistent with Title VI. FTA's objectives for this policy include:

- To ensure that FTA-assisted benefits and related services are made available and are equitably distributed without regard to race, color, or national origin;
- To ensure that the level and quality of FTA-assisted transit services are sufficient to provide equal access and mobility for any person without regard to race, color, or national origin;
- To ensure that opportunities to participate in the transit planning and decision making processes are provided to persons without regard to race, color, or national origin;
- To ensure that decisions on the location of transit services and facilities are made without regard to race, color, or national origin; and
- To ensure that corrective and remedial action is taken by all applicants and recipients of FTA assistance to prevent discriminatory treatment of any beneficiary based on race, color, or national origin.

### **III. Title VI Requirements for Transit Providers**

The following documentation must be submitted and/or incorporated, as described below:

#### **A. FTA Civil Rights Assurance**

All FTA applicants, recipients, or subrecipients requesting capital, operating, or planning assistance are required to submit an FTA Civil Rights Assurance (see Appendix). This assurance must be signed and dated by the transit system's chief executive officer, stating that the level and quality of transit service and related benefits are provided in a manner consistent with Title VI of the Civil Rights Act of 1964.

#### **B. Incorporation of Corrective Actions**

If previous Title VI deficiencies have been found by the grantee or through an FTA review, corrective action to remedy these deficiencies must be incorporated into the recipient's TIP to assure compliance with Title VI.

#### **C. Monitoring Procedures**

All grantees that provide public transit service must develop and implement procedures to monitor the level and quality of transit service to determine compliance with Title VI. This monitoring includes comparisons

of the level and quality of transit service provided (or proposed to be provided) to the minority community against overall system averages. This mechanism is intended to measure the actual realization of established service policies and standards. The following two methodologies are intended to analyze the level and quality of transit service provided to minority communities. Service provided to these communities will be measured in terms of the agency's established policies and standards for provision of transit service throughout the community, to ensure equal service to all populations (i.e., vehicle load, vehicle assignment, headways, transit amenities, transit access, etc.).

1. *Level of Service Methodology*

This methodology will determine whether the level of service is consistent among different user groups and meets the transit's grantee's established service policies.

- a. Select an appropriate sample size. At a minimum, the sample must include each census tract<sup>1</sup> that has a minority population that is equal to or above the total percentage of all minorities within the service area. In addition, at least 10 percent of all the census tracts in the service area should be included in the analysis. A chart for each census tract showing the actual numbers and percentages for each minority group within that zone or tract should be compiled (see Table 1). The total population should also be shown.

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<sup>1</sup> In all elements of the methodologies, traffic analysis zones may be substituted for census tract, as long as the study areas are consistently determined for all methodologies.

**Table 1: Model Population/Racial Distribution Chart**

Census Tract	Total Population		Black Population		Hispanic Population		Asian Population		Native American Population		Total Minority Population	
	#	%	#	%	#	%	#	%	#	%	#	%
100.1	400	100	50	12.5	20	5	5	1.2	5	1.2	80	20
101.1	300	100	75	25	75	25	10	3.3	10	3.3	170	56.7
200.1	175	100	20	11.4	50	28.6	0	0	0	0	70	40
201.1	250	100	5	2	5	2	10	4	0	0	20	8
300.1	100	100	0	0	50	50	5	5	0	0	55	55
301.1	25	100	1	4	0	0	1	4	0	0	2	8
302.1	50	100	10	20	10	20	5	10	5	10	30	60
401.1	400	100	75	18.8	100	25	25	6.2	5	1.2	205	51.2
402.1	200	100	50	25	50	25	15	7.5	0	0	115	57.5
Population Totals	1,900		286		360		76		25		747	
Total Percentages	100		15.1		18.9		4		1.3		39.3	

- b. Inventory and document the transit service provided in the selected sample areas.
- c. Assess the performance of each route operating within the selected areas for each of grantee's service standards and policies.
- d. Compare the transit service provided to minority areas to the grantee's service policies and standards, and review and take action in all cases in which the service to minority areas do not meet the stated service policy or standards of the grantee.
- e. Compare the average performance for each route in the transit system to the grantee's service policies and standards, and take action on the observed differences.

The following is a list of five transit service indicators considered by FTA to be significant to monitor public transit system's compliance with Title VI. At a minimum, FTA recommends that transit service policies and standards be established for these indicators:

- i. Vehicle Load. Vehicle Load or load factor is a ratio of the number of seats on a vehicle to the number of passengers. Load factor is an indicator of the extent of probable overcrowding or the need for additional vehicles. It is also a means to determine whether the level of service on a particular route at a particular time is adequate to assure a level of service deemed appropriate for the

transit system. As a service standard, load factor is typically expressed as a ratio (e.g., 1:1.25 or 1 seat for every 1.25 passengers). The load factor is determined by taking the number of seats on a specific route which pass the peak point during the peak hour and dividing that into the number of passengers that are actually carried past that point during that hour.

- ii. Vehicle Assignment. Vehicle assignment refers to the process by which transit vehicles are assigned to routes throughout the system due to variations among vehicles (e.g., age, type or size, amenities, etc.), types of service offered (e.g., express or local, long- or short-haul, etc.), timing of vehicle assignment (e.g., time of day, day of week, holiday/non-holiday, etc.), and other factors (e.g., origin points of vehicles, etc.).
- iii. Vehicle Headway. Vehicle headway is a measurement of the time interval between two vehicles traveling in the same direction on the same route. The frequency of service is a general indication of the level of service provided along a route and a factor in the calculation of the amount of travel time expended by a passenger to reach his/her destination. It is generally expressed for peak end off peak service as an increment of time (e.g., peak: every 15 minutes; and off peak: every 30 minutes).
- iv. Distribution of Transit Amenities. Transit amenities refer to items of comfort and convenience available to the general riding public such as escalators at rapid rail stations, "park-and-ride" facilities, etc. Policies or standards in this area address how these amenities are distributed within a transit system. The manner in which such amenities/ facilities are distributed determines whether transit users have equal access to these.
- v. Transit Access. Transit access is a measure of the distance a person must travel to gain access to transit service. When measured in time intervals, it is a component of the calculation of travel time. Transit access is a general measure of the distribution of routes within a transit district. The standards or policies covering this area apply to existing services as well as proposed changes in levels of service (e.g., expansion, addition, deletion, etc., of routes).

While FTA will examine service standards or policies in the above five areas, recipients may develop standards or policies in other areas such as frequency and level of vehicle maintenance, vehicle and equipment breakdown rates, etc.

Written statements of each service standard adopted shall be provided as well as a statement of the policy and process which led to the standard's adoption.

## *2. Quality of Service Methodology*

This methodology will determine whether the quality of service is consistent among different user groups, the degree to which transit service is responsive to minority needs, and whether there is equity in the quality of service provided.

- a. Identify an appropriate number of minority census tracts or and a corresponding number of comparable non-minority census tracts. The number of census tracts or analysis zones selected should be based on the population within the service area. For service areas with a population of 200,000 or below, at least three minority and three non-minority census tracts or traffic analysis zones must be selected.
- b. Conduct a survey of transit riders in the identified areas to determine travel patterns (work trip destination) and opinions on the transit service provided. Census data may also be used to model transit travel patterns in an urbanized area.
- c. Summarize the travel patterns of transit users in the selected census tracts, and summarize comments or opinions about the transit service.
- d. Using transit travel time end fare matrices, and/or other appropriate indices, information must be monitored for the top three most-traveled destinations. All values below emanate from the centroid of selected census tracts to the centroid of destination:
  - Average peak hour travel time to destination;
  - Number of transfers/bus stops before reaching destination;
  - Total cost of trip to destination; and
  - Cost per mile of trip to destination.
- e. In using this methodology, the grantee must compare the quality of service of minority census tracts with non-minority census tracts, and take action on the disparities.

## **IV. Types of Reviews**

### **A. Pre-Approval Reviews**

Application reviews are conducted in response to applications for assistance. The purpose of these reviews is to determine if the benefits of a proposed project are distributed in a nondiscriminatory manner.

### **B. Post-Approval Reviews**

Post-approval reviews are conducted as a part of FTA's ongoing monitoring responsibilities. These reviews will be conducted at least once every 3 years. The review may be either a "desk audit" or "onsite."

### **C. Discretionary Follow-up Reviews**

Follow-up reviews will be conducted by FTA, as appropriate, to assure that federally assisted transit services and benefits are distributed to minorities in a fair and equitable manner. Two such reviews would include, but not be limited to:

1. A review to determine whether a recipient is honoring its commitment represented by the certification to FTA that it is complying with its responsibilities under Title VI; and
2. A compliance review conducted in response to a specific complaint alleging discrimination. Other factors that may initiate such reviews include, but are not limited to:
  - a. The level of assistance being provided by FTA;
  - b. The nature of projects being undertaken by a recipient and their impact on the minority community;
  - c. The level and quality of transit services and benefits provided by the grantee;
  - d. The size of the minority population within the given service areas;
  - e. Specific problems involving service delivery to the minority community; and
  - f. The findings of the pre- and post-award compliance reviews.

### **V. Public Information**

Specific types of information must be disseminated and/or made available to the public by Federal agencies and recipients of Federal assistance. Grantees are therefore responsible to provide the following types of information:

- Title VI regulations are to be made available to the public upon request.
- Each recipient shall maintain records and other information and submit compliance reports and assessments as directed. This information may be made available to the public upon request.
- Each recipient shall make available to participants, beneficiaries, and other interested parties information regarding the recipient's Title VI program. At a minimum, this shall include the display of posters which:
  - State that the recipient operates programs subject to the nondiscrimination requirements under Title VI;

- Summarize such requirements (e.g., Statement of Rights);
  - Explain the availability of Title VI information; and
  - Briefly explain the procedures for filing a complaint.
  - References to other publications containing Title VI information should also be made.
  - Recipients shall include disseminating information on complaint procedures and the rights of beneficiaries in handbooks, pamphlets, and other materials ordinarily distributed to the public by the recipient.
- Where a significant number or portion of the population eligible to be served needs service or information in a language other than English to participate in FTA-assisted programs, the recipient shall take every reasonable step to provide information in appropriate languages.

#### **VI. Limited English Proficiency and Environmental Justice Executive Orders**

Two Executive Orders have been issued since 1964 that affect the FTA's Title VI compliance responsibilities. Executive Order 13166, issued August 11<sup>th</sup>, 2000, calls for full access of government and government funded services "to otherwise eligible persons who are not proficient in the English language."

Executive Order 12898 (February 11, 1994) requires each federal agency to "make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States. Executive Order 12898 also requires federal agencies to work to ensure greater public participation in the decision-making process.

Compliance with these Executive Orders for transit providers receiving FTA funding becomes part of their overall Title VI compliance activities. To assist in this process, the FTA has provided a guidance document to analyze Limited English Proficiency and Environmental Justice compliance for service and/ or fare changes (see Appendix).



## **APPENDIX**

- Circular #UMTA C 4702.1 with Circular's Appendixes:
  - Urban Mass Transportation Administration Civil Rights Assurance
  - Department of Transportation Title VI Assurance
- Title VI, Environmental Justice, and Limited English Proficiency Analysis

CIRCULAR  
UMTA C 4702.1  
May 26, 1988.

U.S. Department  
of Transportation

Urban Mass  
Transportation  
Administration

Subject: TITLE VI PROGRAM GUIDELINES FOR URBAN MASS  
TRANSPORTATION ADMINISTRATION RECIPIENTS

1. PURPOSE. The purpose of this circular is to provide guidance and instructions necessary to carry out Title VI of the Civil Rights Act of 1964 (Title VI), through the prescription of requirements and procedures which, if followed, will ensure that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance from the Urban Mass Transportation Administration (UMTA).

Publication of this circular is necessary to comply with requirements contained in the Title VI regulations issued by the U.S. Department of Justice (DOJ) (28 CFR Part 42, Subpart F) and the U.S. Department of Transportation (DOT) (49 CFR Part 21).

2. CANCELLATION. This circular cancels UMTA Circular 1160.1A, "Title VI Program Guidelines for Urban Mass Transportation Administration Recipients," dated 9-18-87;
3. SCOPE. This circular applies to all assistance authorized by the Urban Mass Transportation Act of 1964, as amended (hereafter referred to as the UMT Act), and all programs administered by UMTA.
4. DELEGATION OF AUTHORITY. This circular does not contain any delegations of authority.
5. REFERENCES.

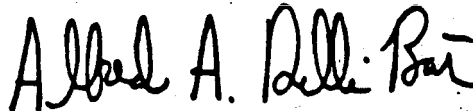
- a. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d;
- b. UMT Act of 1964, as amended;
- c. Uniform Relocation Assistance Act of 1970, 42 U.S.C. 4601, et seq.;
- d. DOJ regulation, 28 CFR Part 42, Subpart F, "Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs;"
- e. DOT regulation, 49 CFR Part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964;"

f. DOT Order 1000.12, "Implementation of the Department of Transportation Title VI Program," dated 1-19-77; and

g. DOT Order 1050.2, "Standard DOT Title VI. Assurances," dated B-24-71.

6. BACKGROUND.

- a. Since 1972, UMTA has required applicants for and recipients and subrecipients of Federal assistance to provide assessments of compliance with Title VI as part of the grant approval process. In December 1977, UMTA issued a Title VI circular with instructions to clarify previous guidance and to implement the DOJ regulation published on 12-1-76.
- b. The DOJ regulation implementing Title VI states that the responsibility for enforcing Title VI rests with the Federal agency extending financial assistance. The enforcement of Title VI by UMTA will be achieved through continued data collection, reporting, compliance reviews, and, if necessary, remedial and enforcement actions.
- c. The guidelines and instructions contained in this circular are intended to be responsive to changes in the UMTA programs since 1977, and more responsive to the needs of minority persons and communities by ensuring that transit service and related benefits are distributed in a manner consistent with Title VI of the Civil Rights Act of 1964. At the same time, a substantial effort has been made to reduce the paperwork burden of the previous requirements and to combine the UMTA Title VI efforts with other ongoing program management and oversight activities.



Alfred A. DelliBovi  
Administrator

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## CHAPTER I

### GENERAL

1. PURPOSE. Section 601 of Title VI of the Civil Rights Act of 1964 states the following:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

To achieve this purpose, each Federal department and agency which provides financial assistance for any program or activity is authorized and directed by DOJ to effectuate provisions of Title VI for each program or activity by issuing generally applicable rules, regulations, or requirements.

In this regard, the responsibility of UMTA is to ensure that federally supported transit services and related benefits are distributed by applicants, recipients, and subrecipients of UMTA assistance in a manner consistent with Title VI. The employment practices of a grant applicant, recipient, or subrecipient are also covered under Title VI if the primary purpose of the UMTA-supported program is to provide employment or those employment practices would result in discrimination against beneficiaries of UMTA-assisted services and benefits.

This circular provides information on how UMTA will enforce Title VI in accordance with its responsibilities as set forth by the Title VI regulations issued by DOJ (28 CFR Part 42) and DOT (49 CFR Part 21). This circular includes information, guidance and instructions on the objectives of the UMTA Title VI program; information on specific grant programs covered by the UMTA Title VI program; a description of the UMTA data collection and reporting requirements; a summary of the UMTA compliance review and Title VI certification procedures; a description of the UMTA process for implementing remedial and enforcement actions; information on the DOT complaint process; and public information requirements.

2. OBJECTIVES. The objectives of the UMTA Title VI program are as follows:
  - a. To ensure that UMTA-assisted benefits and related services are made available and are equitably distributed without regard to race, color, or national origin;
  - b. To ensure that the level and quality of UMTA-assisted transit services are sufficient to provide equal access and mobility for any person without regard to race, color, or national origin;
  - c. To ensure that opportunities to participate in the transit planning and decisionmaking processes are provided to persons without regard to race, color, or national origin;

- d. To ensure that decisions on the location of transit services and facilities are made without regard to race, color, or national origin; and
- e. To ensure that corrective and remedial action is taken by all applicants and recipients of UMTA assistance to prevent discriminatory treatment of any beneficiary based on race, color, or national origin.

These objectives are the basis for the implementation of the UMTA Title VI program. Applicants, recipients, and subrecipients of UMTA financial assistance must adopt a Title VI compliance program that is consistent with the requirements in this circular.

3. DEFINITIONS. For purposes of this circular, the following definitions will be used:

- a. Applicant means an eligible public entity or organization that submits an application for financial assistance under any UMTA program.
- b. Closed-Door Route Segment means that portion of a transit route in which there are no bus stops to board or disembark.
- c. Compliance refers to a condition in which UMTA has found that the applicant, recipient, or subrecipient has met the requirements in this circular, and there is no indication or evidence of discrimination on the basis of race, color, or national origin.
- d. Contractor means any entity or organization which has entered into a contract relating to transit service delivery with an applicant, recipient, or subrecipient.
- e. Covered Employment Practices refers to practices under federally assisted programs in which the primary objective of the Federal financial assistance is to provide employment or if those practices would result in discrimination on the basis of race, color, or national origin against beneficiaries of federally assisted services and benefits.
- f. Discrimination refers to any intentional or unintentional act, or any failure to act, which has the effect of excluding or denying a person from participation in benefits, or has otherwise subjected a person to unequal treatment under any program or activity because of race, color, or national origin.
- g. Minority or Minority Group Persons include the following:
  - (1) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
  - (2) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
  - (3) "Native Americans," which include persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
  - (4) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia,

the Philippines, Samoa, Guam, the U.S. Trust Territories of Pacific, and the Northern Marianas; and

- (5) "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh.
- h. Minority Transit Route means a route that has at least 1/3 of its total route mileage in a census tract(s) or traffic analysis zone(s) with a percentage of minority population greater than the percentage of minority population in the transit service area.
  - i. National Origin means the particular Nation where a person was born, or where the person's parents or ancestors were born.
  - j. Noncompliance means a failure to meet the requirements of Title VI and the regulations and orders of the Department issued thereunder or failure to implement an approved Title VI program.
  - k. Nonminority or Nonminority Group Person means a White person, not of Hispanic origin, having origins in any of the original peoples of Europe, North Africa, or the Middle East.
  - l. Primary Recipient means any recipient that is authorized or required to request Federal assistance on behalf of subrecipients, and distributes such financial assistance to subrecipients for the purpose of carrying out a program.
  - m. Probable Noncompliance refers to a condition in which UMTA has found that the applicant, recipient, or subrecipient does not fully satisfy these requirements and has requested the applicant, recipient, or subrecipient to take remedial or corrective actions to achieve compliance; or has initiated an enforcement action against the applicant, recipient, or subrecipient.
  - n. Recipient means any State, political subdivision, instrumentality, or any public or private agency, institution, department or other organizational unit, to whom financial assistance is directly extended by UMTA.
  - o. Secretary means the Secretary of the DOT.
  - p. Service Standard/Policy means an established policy or service performance measure used by a transit provider or other applicant, recipient, or subrecipient as a means to plan, program, or distribute services and benefits within its service area.
  - q. Subcontractor means any entity or organization which has entered into a subcontract relating to transit service delivery with a contractor to provide a service in connection with a program or activity initiated by an applicant, recipient, or subrecipient.
  - r. Subrecipient means any entity that receives UMTA financial assistance through a primary recipient.
  - s. Title VI Program means the system of requirements, procedures, actions and sanctions adopted by Federal, State, and local agencies and other applicants, recipients, and subrecipients which are deemed



necessary and appropriate to comply with Title VI of the Civil Rights Act of 1964, and the implementing regulations issued by DOJ and DOT.

- t. Travel Time means the total travel time from an origin location in a census tract/traffic analysis zone to a destination in another or same census tract/traffic analysis zone and includes or equals the sum of the following components:
- (1) The walking time or riding time, in a private vehicle, from the origin location in a census tract/traffic analysis zone to the transit access location (called out-of-transit vehicle travel time), calculated at a walking speed of 3 miles per hour, or a riding speed of 25 miles per hour;
  - (2) The average scheduled in-transit vehicle peak hour travel time or total travel time where more than one vehicle to the same destination is involved;
  - (3) The waiting time or times calculated as 1/2 the headway(s), and, if transfers are required, the sum of the waiting times for each transfer made; and
  - (4) The walking or riding time from the transit egress location to the destination location, again at a walking speed of 3 miles per hour or a riding speed of 25 miles per hour.
- u. UMTA Activity means any program of assistance authorized by sections of the UMT Act; the Federal Aid Urban System Program (23 U.S.C. 142(a)(2)); and the Interstate Transfer Program (23 U.S.C. 103(e)(4)).

## CHAPTER II

### COVERAGE

1. GENERAL. All programs administered by UMTA are subject to Title VI of the Civil Rights Act of 1964, and the implementing regulations issued by DOJ (28 CFR Part 42, Subpart F) and DOT (49 CFR Part 21). This includes the assistance programs authorized by the UMT Act of 1964, as amended, the Federal Aid Urban System Program (23 U.S.C. 142(a)(2)), and the Interstate Transfer Program (23 U.S.C. 103(s)(4)).

All applicants, recipients, and subrecipients of UMTA assistance shall comply with the Title VI requirements in this circular.

UMTA has established two main categories of reporting requirements: General and Program-Specific.

- a. General Reporting Requirements are the same for all applicants, recipients, or subrecipients regardless of the type or level of assistance requested or received. All must comply with these general reporting requirements.
- b. Program-Specific Reporting Requirements are set separately for each UMTA program and apply to any applicant, recipient, or subrecipient meeting any of the program thresholds as identified below:
  - (1) A public transit provider which provides transit services primarily within service areas with populations over 200,000 requesting or receiving capital, operating, or planning assistance under Sections 3, 4(i), or 9 of the UMT Act of 1964; assistance under Federal Aid Urban System Program; or assistance under Interstate Transfer Program;
  - (2) Public transit providers not covered by paragraph 1b(1)above, which have otherwise been determined by UMTA to have special Title VI compliance concerns. As appropriate, UMTA may make a written request for information, i.e., level and quality of service data, as specified in Chapter V of this circular. Also, UMTA may deem it appropriate to request program-specific information from a public transit provider falling below the threshold, but which has a significant minority population in its service area or has proposed major capital improvements. Such information may also be requested as a result of a receipt of a service-related complaint.
  - (3) A metropolitan planning organization (MPO) requesting or receiving planning assistance under Sections 8 and 9 within an urbanized area with a population over 200,000;
  - (4) A State agency responsible for administering the UMTA elderly and handicapped and rural assistance programs funded under Sections 8, 9, 16(b)(2), or 18;
  - (5) An applicant requesting assistance for service related research, development, or demonstration projects funded under

## Section 6;

- (6) An applicant for fellowships for training of personnel employed in managerial, technical, and professional positions under Section 10;
- (7) Applicants for research and training in urban transportation problems under Section 11 are exempt from program-specific requirements; and
- (8) Applicants for human resource programs under Section 20 are exempt from program-specific requirements.

2. STATE-ADMINISTERED PROGRAMS.

- a. The UMTA Title VI requirements apply to the programs administered by State agencies.. Generally, the programs include the UMTA elderly and handicapped and rural assistance programs funded under Sections 16(b)(2) and 18, respectively. In addition, some States administer the UMTA planning and formula capital and operating assistance programs for urbanized areas with a population of 200,000. or less funded under Sections 6 and 8.
- b. For these programs, Title VI shall be enforced in the following manner:
  - (1) State agencies shall ensure that subrecipients, are in compliance with the requirements contained in this circular, and shall conduct Title VI assessments of subrecipients;
  - (2) State agencies shall maintain and provide date and other relevant information to UMTA as required in this circular, including all pertinent data obtained from subrecipients;
  - (3) Subrecipients shall be responsible for complying with these requirements and shall submit all pertinent data to the State agency; and
  - (4) UMTA may at its discretion collect date from State agencies necessary to determine Title VI compliance. UMTA may, as appropriate, conduct compliance reviews of State agencies and subrecipients.

- 3. OTHER INFORMATION. At the discretion of UMTA, information other than that required by this circular, may be requested from an applicant, recipient, or subrecipient (as noted in paragraph 1b of this chapter) to resolve questions concerning compliance with Title VI. In such cases, the request for additional information will be made in writing. Failure to provide this information may result in a finding of probable noncompliance or noncompliance.

## CHAPTER III

### DATA COLLECTION AND REPORTING REQUIREMENTS

1. OVERVIEW. The DOJ and DOT regulations implementing Title VI require Federal agencies to collect data and other information to enforce Title VI. This chapter describes the data collection and reporting requirements used by UMTA to meet its enforcement responsibilities under Title VI. As indicated in Chapter II, this chapter provides detailed guidance on General and Program-Specific Reporting Requirements.
2. GENERAL REPORTING REQUIREMENTS. ALL applicants, recipients, and subrecipients are required to maintain and provide to UMTA the information outlined in this section. The information is required under the DOJ regulation and must be submitted prior to the approval of any grant application. Recipients and subrecipients should provide updated information as conditions warrant. Updates must at a minimum be provided every 3 years. Information previously submitted under the General Reporting Requirements may be referenced in subsequent submissions, as appropriate.

All applicants, recipients, and subrecipients shall maintain and submit the following general requirements:

- a. A list of any active lawsuits or complaints naming the applicant which allege discrimination on the basis of race, color, or national origin with respect to service or other transit benefits. The list should include: the date the lawsuit or complaint was filed; a summary of the allegation; and the status of the lawsuit or complaint, including whether the parties to a lawsuit have entered into a consent decree. For applicants of assistance under Sections 6, 10, 16(b)(2), and 18, this information should be maintained and made available to UMTA on request. For all applicants for UMTA assistance, this information should be relevant to the organizational entity actually submitting the application, not necessarily the larger agency or department which the entity is a part (e.g., not all information on all modes of transportation).
- b. A description of all pending applications for financial assistance, and all financial assistance currently provided by other Federal agencies. For applicants of assistance under Sections 6, 10, 16(b)(2), and 18, this information should be maintained and made available to UMTA on request. For all applicants for UMTA assistance, this information should be relevant to the organizational entity actually submitting the application, not necessarily the larger agency or department of which the entity is a part.
- c. A summary of all civil rights compliance review activities conducted in the last 3 years. The summary should include: the purpose or reason for the review; the name of the agency or organization that performed the review; a summary of the findings and recommendations of the review; and, a report on the status and/or disposition of such findings and recommendations. For all applicants for UMTA assistance, this information should be relevant to the organizational entity actually submitting the application, not necessarily the larger

agency or department of which the entity is a part.

- d. A signed UMTA Civil Rights Assurance that all of the records and other information required under this circular have been or will be compiled, as appropriate, and maintained by the applicant, recipient, or subrecipient. In the case of State administered programs, this assurance should be provided by the primary and subrecipient (see Appendix A).
- e. A signed standard DOT Title VI Assurance. This assurance will be maintained as part of the UMTA "One-Time Submission" file (see Appendix B).
- f. For construction projects, a fixed-facility impact analysis to assess the effects on minority communities. If this information has been prepared as a result of an environmental assessment or environmental impact statement, the applicant, recipient, or subrecipient should reference the relevant information by document, page number(s), and date of submission to UMTA.

The analysis should include:

- (1) A discussion of the potential impact on minority communities and minority-owned businesses during and after construction;
  - (2) A discussion of all potential negative environmental impact, such as noise, air, or water pollution;
  - (3) A detailed list of minority-owned businesses and households that will be affected by the construction project;
  - (4) A description of other significant changes or impacts on the minority community, such as increased traffic, reductions in the amount of available parking, etc.; and
  - (5) A description of the relocation program and/or other measures adopted by the applicant that will be used to mitigate any identified adverse social, economic, or environmental effect of the proposed construction project.
3. PROGRAM-SPECIFIC REQUIREMENTS. The DOJ and DOT regulations require UMTA to request information from applicants, recipients, and subrecipients on the manner in which service and benefits are provided. Any applicant, recipient, or subrecipient meeting the thresholds described below shall also submit program-specific information to document compliance with Title VI.
- a. Program-Specific Requirements for Public Transit Providers. Applicants, recipients, and subrecipients that provide public mass transit service primarily in service areas with populations over 200,000, which have requested or received Federal capital, operating, or planning assistance authorized under Sections 3, 4(i), and 9 of the UMT Act or the Federal Aid Urban System Program (23 U.S.C. 142(a)(2)) and Interstate Transfer Program (23 U.S.C. 103(s)(4)), are required to comply with the Program-Specific Requirements which follow:

- (1) Demographic and Service Profile Maps, Overlays and Charts. The DOJ and DOT regulations state that Federal agencies should require information on the minority population eligible to receive federally funded services. To address this requirement, UMTA requires transit providers meeting the threshold to prepare the following demographic and service profile maps, overlays, and charts. These items must be updated and submitted:

- (a) After each Federal census or as soon thereafter as the new Federal census data becomes available;
- (b) When there are significant-changes in the transit system, but at least every 3 years; and
- (c) Maps and overlays must be initially submitted.

1 Base Map. A legible scaled map of the transit service area which identifies:

- a Each census tract by number or traffic analysis zone;
- b Major streets and highways;
- c Fixed transit facilities, including rapid rail stations, fixed transit guideways, maintenance and garage facilities, and administrative buildings; and
- d Major activity centers or transit trip generators, such as the central business district, outlying high employment areas, schools, and hospitals.

2 Overlays. Two transparencies must be submitted which show the distribution of the minority population and transit service in the service area. Overlays should be drawn in ink on transparencies, although UMTA will consider a recipient's written request for an alternative format. All overlays must have appropriate markings to align these over the base map. The two types of overlays are as follows:

- a Minority Population Overlay. This overlay should encompass the entire service zone, showing the total minority population for each census tract or traffic analysis zone shown on the base map expressed in raw numbers and as a percentage for that tract or zone. The minority total is the sum of the population totals for each individual minority group (e.g., Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans) within the tract or, zone. The minority percentage is the total, divided by the total population of the tract or zone, multiplied by 100. Charts should also be prepared for

each census tract or traffic analysis zone showing the totals for each minority group, and their percentage of the total population of the tract or zone. (See Exhibit III-1, page III-5.) While UMTA does not require separate overlays for individual minority groups, it may do so if such specialized overlays would assist in determining compliance with Title VI.

b Transit Service Overlay. This overlay should show all transit routes, including rail lines in the service area, with their origins and destinations. The type(s) of service provided on each route should be indicated (e.g., express, limited, local, or commuter service) as well as, the time of service (e.g., peak hour only; non-peak hour all day service).

3 Population/Racial Distribution Chart. (See Exhibit III-1, page III-5.) UMTA requires a chart for each census tract or traffic analysis zone showing the actual numbers and percentages for each minority group within that zone or tract. The total population should also be shown. A suggested format follows:

POPULATION/RACIAL DISTRIBUTION CHART

Census Tract or Traffic Analysis Zone Identifier	Total Population		Black Population		Hispanic Population		Asian Population		Native American Population		Total Minority Population	
	#	%	#	%	#	%	#	%	#	%	#	%
100.1	400	100	50	12.5	20	5.0	5	1.2	5	1.2	80	20.0
101.1	300	100	75	25.0	75	25.0	10	3.3	10	3.3	170	56.7
200.1	175	100	20	11.4	50	28.6	0	0.0	0	0.0	70	40.0
201.1	250	100	5	2.0	5	2.0	10	4.0	0	0.0	20	8.0
300.1	100	100	0	0.0	50	50.0	5	5.0	0	0.0	55	55.0
301.1	25	100	1	4.0	0	0.0	1	4.0	0	0.0	2	8.0
302.1	50	100	10	20.0	10	20.0	5	10.0	5	10.0	30	60.0
401.1	400	100	75	18.8	100	25.0	25	6.2	5	1.2	205	51.2
402.1	200	100	50	25.0	50	25.0	15	7.5	0	0.0	115	57.5
Population Totals:	1,900		286		360		76		25		747	
Total Percentages:	100		15.1		18.9		4.0		1.3		39.3	

Exhibit III-1

A summary chart, formatted in a manner similar to the above, should be prepared for the entire service area.

- (2) Service Standards and Policies. The DOJ and DOT regulations implementing Title VI state that Federal agencies should require information on the manner in which federally funded services are provided. To address this requirement, UMTA requests information on the system-wide service policies and standards used by the local transit system which relate to service considerations covered by Title VI.

The following is a list of five transit service indicators considered by UMTA to be significant to monitor public transit system's compliance with Title VI. At a minimum, UMTA recommends that transit service policies and standards be established for these indicators:

- (a) Vehicle Load. Vehicle Load or load factor is a ratio of the number of seats on a vehicle to the number of passengers. Load factor is an indicator of the extent of probable overcrowding or the need for additional vehicles. It is also a means to determine whether the level of service on a particular route at a particular time is adequate to assure a level of service deemed appropriate for the transit system. As a service standard, load factor is typically expressed as a ratio (e.g., 1:1.25 or 1 seat for every 1.25 passengers). The load factor is determined by taking the number of seats on a specific route which pass the peak point during the peak hour and dividing that into the number of passengers that are actually carried past that point during that hour.
- (b) Vehicle Assignment. Vehicle assignment refers to the process by which transit vehicles are assigned to routes throughout the system due to variations among vehicles (e.g., age, type or size, amenities, etc.), types of service offered (e.g., express or local, long- or short-haul, etc.), timing of vehicle assignment (e.g., time of day, day of week, holiday/nonholiday, etc.), and other factors (e.g., origin points of vehicles, etc.).
- (c) Vehicle Headway. Vehicle headway is a measurement of the time interval between two vehicles traveling in the same direction on the same route. The frequency of service is a general indication of the level of service provided along a route and a factor in the calculation of the amount of travel time expended by a passenger to reach his/her destination. It is generally expressed for peak end off peak service as an increment of time (e.g., peak: every 15 minutes; and off peak: every 30 minutes).
- (d) Distribution of Transit Amenities. Transit amenities refer to items of comfort and convenience available to the general riding public such as escalators at rapid rail stations, "park-and-ride" facilities, etc. Policies or standards in this area address how these amenities are distributed within a transit system. The manner in which such amenities/ facilities are distributed determines whether transit users have equal access to these.



- (e) Transit Access. Transit access is a measure of the distance a person must travel to gain access to transit service. When measured in time intervals, it is a component of the calculation of travel time. Transit access is a general measure of the distribution of routes within a transit district. The standards or policies covering this area apply to existing services as well as proposed changes in levels of service (e.g., expansion, addition, deletion, etc., of routes).

While UMTA will examine service standards or policies in the above five areas, recipients may develop standards or policies in other areas such as frequency and level of vehicle maintenance, vehicle and equipment breakdown rates, etc.

Written statements of each service standard adopted shall be provided as well as a statement of the policy and process which led to the standard's adoption.

- (3) Assessment of Compliance by Grantees. Transit systems meeting the threshold shall be required to develop procedures and guidelines for monitoring compliance with Title VI. At a minimum, transit providers must conduct periodic compliance assessments to determine whether the transit service provided to minority communities and minority users is consistent with the objectives cited in Chapter I of the circular. Grantee compliance assessments should identify possible areas of noncompliance and implement corrective actions independent of UMTA actions.

To comply with this requirement, UMTA recommends that transit providers take the following actions

- (a) Establish procedures for developing and maintaining Local standards for compliance with Title VI.
  - (b) Establish internal guidelines for making determinations of compliance with Title VI as part of local decisionmaking processes and continuing project management and contract administration responsibilities.
  - (c) Evaluate system-wide service changes and proposed improvements at the planning and programming stages to determine whether the overall benefits and costs of such changes or improvements are distributed equally, and are not discriminatory.
  - (d) Conduct compliance assessments of UMTA-assisted transit services and benefits to assure compliance with requirements in Chapter IV.
  - (e) Take action on findings and recommendations made by reviewing officials.
- (4) Other Areas of Title VI Considerations.
    - (a) Changes in Service Features. Provide a description of the type of service changes (e.g., route extensions, deletions, etc., including any changes as a result of contracting out transit service) proposed by the transit authority over the next 3 years, and a statement of the effect of these changes on minority communities and minority transit users. In particular, the transit system must describe significant service changes relating

to hours or days of operation, headways or fares, etc., and provide the schedule reflecting such changes.

- (b) Information Dissemination. Provide a description of the methods used to, inform minority communities of service changes (e.g., public notices, public hearings, other formal or informal public discussions, presentations, meetings, etc.) relating to transit service and improvements.
- (c) Minority Representation on Decisionmaking Bodies. Provide a racial breakdown of transit-related nonelected boards, advisory councils or committees, which are integral parts of the transit agency's planning process, implementation of programs and other related activities. Provide a description of the efforts made to encourage minorities to participate on such boards, councils, or committees.
- (d) Multilingual Facilities. Provide a description of the extent to which bilingual persons and/or materials are or will be used to assist non-English-speaking persons desiring use of the transit system. For example, in service areas with a significant Hispanic population, the transit agency should discuss the steps taken to communicate with the community. Efforts should include steps such as the utilization of schedules, signs, etc., written in Spanish, as well as providing Spanish-speaking employees. Likewise, the publication of public hearing notices in languages other than English or the use of interpreters should be noted.

In cases where a transit agency posts signs warning the general public about dangerous situations (e.g., the electrified rail), information must be in languages and/or signs when a significant number of the population is non-English speaking.

- b. Program-Specific Requirements for MPOs. Applicants, recipients, and subrecipients that have been designated by the Governor of a State as a MPO, primarily within service areas with populations over 200,000 receiving planning assistance under Sections 8 or 9 of the UMT Act of 1964, as amended, are required to comply with data collection and reporting requirements in this chapter of this circular.

This information shall be updated annually by the MPO. UMTA will request this information in conjunction with its review of the MPO's Unified Planning Work Program (UPWP). Where practical, the MPO is encouraged to reference or make the information required by this chapter a part of the UPWP. To comply with this requirement, MPOs must take the following actions:

- (1) Assessment of Planning Efforts. Provide a written description of continuing planning efforts which are responsive to the requirements of Title VI to assure that transit planning and programming are nondiscriminatory. The description should also discuss how activities or projects programmed in the UPWP and Transit Improvement Plan (TIP) will be implemented on a nondiscriminatory basis. UMTA expects the MPO to address Title VI concerns raised during compliance reviews conducted by either transit providers or by UMTA or as the result of a Title VI service complaint issue involving programming, planning activities, or capital improvements.

- (2) Monitor Title VI Activities. Monitor the Title VI activities and/or programs of local transit system. In particular, the MPO is requested to provide documentation describing efforts to:
  - (a) Identify minority communities that will be affected by proposed service changes, such as route modifications, additions, deletions, or extensions under consideration by local transit providers; and
  - (b) Provide technical assistance or guidance to local transportation providers in updating and developing Title VI information;
- (3) Information Dissemination. Provide a description of the methods used to inform minority communities of planning efforts (e.g. public notices, public hearings, other formal or informal public discussions, presentations, meetings, etc.) relating to transit service and improvements.
- (4) Minority Participation in the decision making Process. Provide a written statement describing how minority groups or persons are afforded an opportunity to participate in local decisionmaking processes. In particular, the statement should describe liaison activities with minority community groups and other efforts to obtain minority views on transportation issues.
- (5) Minority Representation on decisionmaking Bodies. Provide a racial breakdown for transit related nonelected boards, advisory councils or committees, and a description of efforts made to encourage the participation of minorities on such boards or committees.

This program-specific information shall be updated and submitted by the applicant, recipient, or subrecipient as the situation warrants, but at least every 3 years. In conjunction with continuing management procedures, e.g., triennial reviews, the UMTA Office of Civil Rights will determine when Title VI updates are to be submitted.

- c. Program-Specific Requirements for State Agencies Administering Transit Programs for the Elderly and Handicapped. State agencies that have been designated by the Governor to administer the UMTA elderly and handicapped program and receive capital assistance under Section 16(b)(2) of the UMT Act are required to comply with the following data collection and reporting requirements. This information may be referenced if it has been submitted to UMTA as a part of another document or maybe submitted separately as part of a State's ongoing Title VI compliance assessment program.

- (1) Grant Administration. The responsible State agency shall maintain a record of funding requests received from private nonprofit organizations, and shall advise UMTA on the manner in which the State selects applicants for funding under the program. This information should be provided with the State's Section 16(b)(2) application. At a minimum, the State should submit:

- (a) A description of the State's process and criteria for selecting private nonprofit organizations to receive financial assistance; and
  - (b) A list of applicants requesting assistance. The List should indicate:
    - 1 Whether the applicant is a minority organization or an organization providing assistance to minority communities.; and
    - 2 Whether the application was approved.
- (2) Program Management Assurance. The responsible State agency shall provide a written description of the steps or procedures it will follow to ensure compliance with Title VI. This information will be included in the UMTA "One-Time Submission" file, and should be updated as necessary to account for changes to the State's management plans or procedures. At a minimum, this should include:
- (a) A description of the State's methods and/or procedures for identifying and assisting nonprofit organizations operated by minorities or groups serving predominantly minority communities; and
  - (b) A description of the State's procedures for ensuring that participating nonprofit organizations satisfy the general data collection and reporting requirements, as addressed in this chapter, and otherwise comply with Title VI.
- d. Program-Specific Requirements for State Agencies Administering Programs for rural and Small Urban Areas. State agencies that have been designated by the Governor to administer the UMTA rural assistance program funded under Sections 8, 9, and 18 of the UMT Act are required to comply with data collection and reporting requirements addressed in this chapter.

Program-specific information for applicants and recipients required in this paragraph may be submitted as part of the State Management Plan required under Sections 8, 9, and 18 or may be submitted separately as part of a State's ongoing Title VI compliance assessment program.

- (1) Title VI Program Management. The responsible State agency shall provide a written statement describing how the Sections 8, 9, and 18 program will be administered to comply with Title VI.

This information will be submitted to UMTA on a one-time basis and should be updated as programmatic and procedural changes occur. At a minimum, this information shall include:

- (a) A description of the State's process by which it develops its application for Section IV funding, especially the criteria used for selecting and/or recommending approval of

funding requests from rural and small transit providers. Native American tribes are eligible recipients and must be considered in the Section 18 review process.

- (b) A description of the State's efforts to assist subrecipients in applying for Sections 8, 9, and 18 assistance, especially any efforts made to assist minority applicants.
  - (c) A description of the State's criteria for selecting transit providers to participate in the Section IV program, especially its efforts to include subrecipients with significant minority populations.
  - (d) A description of the State's ongoing process to monitor subrecipients' compliance with Title VI.
- (2) Title VI Reporting. The above information will be submitted to UMTA on a one-time basis and should be updated as programmatic and procedural changes occur. In addition, annual reports regarding the State's efforts to assure subrecipients' compliance with Title VI should be provided.

- e. Program-Specific Requirements for Applicants of Service Related Research, Development, and Demonstration. All Section 6 grant applications will be reviewed by UMTA to determine whether the project or demonstration will have a significant impact on minority group persons, or whether the project or demonstration will result in benefits which should be made available or distributed to minority groups and communities. Where UMTA finds that the project or demonstration may have a significant impact, UMTA will request supplemental program-specific information.

At a minimum, Section 6 grant applicants must provide responses to the following questions:

- (1) Will this project affect transportation services or other benefits that are presently being provided to minority persons? If so, how?
- (2) How will minority persons be notified of any changes to transportation services or other benefits resulting from the project or demonstration?
- (3) Will minority persons be provided an opportunity to participate in the service benefits which may result from the project or demonstration? If so, how?
- (4) How will service or benefits, which may result from the project or demonstration, be distributed?

If UMTA finds that additional information is needed to determine compliance with Title VI, the applicant may be requested to provide information at that time.

- f. Program-Specific Requirements for Applicants of Grants for Technical and Professional Training Fellowships. Eligibility of applicants under Section 10 of the UMT Act of 1964, as amended, is limited to training of

personnel employed in managerial, technical, and professional positions in the public transportation field. (Certain types of training, e.g., bus operator and maintenance, are not eligible for funding under this provision of the Act.) Applicants shall submit responses to the following questions as part of the grant application:

- (1) What efforts have been made to notify personnel of opportunities to participate in the UMTA-assisted training fellowship program?
- (2) What is the procedure by which employees apply to the UMTA assisted training fellowship program? Are all employees eligible to apply to the program, or must employees be recommended or selected by a committee, supervisor, or some other means?
- (3) What are the criteria, procedures, or other requirements used by the grant applicant to select an employee(s) who apply to the training fellowship program?
- (4) If in the grant application minority group person(s) have not been selected to participate in the training fellowship program, please explain why none were selected, and describe what efforts will be made in the future to involve minority employees in this program.

g. Program-Specific Requirements for Applicants of Grants for Research and Training in Urban Transportation Problems. Applicants of grants for research and training in urban transportation problems under Section 11 are exempt from program-specific requirements.

## CHAPTER IV

### MONITORING PROCEDURES FOR TRANSIT PROVIDERS

1. GENERAL. This chapter provides guidance to recipients on their responsibilities in assuring UMTA that transit services and related benefits are provided on a nondiscriminatory manner consistent with Title VI. This assurance also involves recipients establishing an internal mechanism and methodology to monitor Title VI compliance in certain program areas. The requirement to establish an internal monitoring process and methodologies is applicable to all recipients of capital, operating, and planning assistance, regardless of the amount of assistance received and the size of the total population where the recipient is located.
2. REQUIREMENTS FOR TRANSIT PROVIDERS.
  - a. UMTA Civil Rights Assurance. All UMTA applicants, recipients, or subrecipients requesting capital, operating, or planning assistance are required to submit an UMTA Civil Rights Assurance. (See Appendix A of this circular.) This assurance must be signed and dated by the transit system's chief executive officer, stating that the level and quality of transit service and related benefits are provided in a manner consistent with Title VI of the Civil Rights Act of 1964.
  - b. Incorporation of Corrective Actions into TIP. If previous Title VI deficiencies have been found by the grantee or through an UMTA review, corrective action to remedy these deficiencies must be incorporated into the recipient's TIP to assure compliance with Title VI.
  - c. Grantee's Monitoring Procedures. For the purpose of this section, UMTA is requiring that all grantees that provide public transit service develop and implement procedures to monitor their level and quality of transit service to determine compliance with Title VI. These comparisons of the level and quality of transit service provided to the minority community; against overall system averages, will measure the actual realization of established service policies and standards. UMTA requests that the following methodologies be incorporated in the grantee's monitoring procedures for reviewing levels and quality of service:
    - (1) Level of Service Methodology. For the purpose of this methodology, minority communities must be identified by census tracts or traffic analysis zones. Service provided to these communities will be measured in terms of the service policies and standards adopted by the recipient (i.e., vehicle load, vehicle assignment, headways, transit amenities, transit access, etc.). Recipients shall as a part of their internal monitoring procedure undertake the following:
      - (a) Select an appropriate sample size. At a minimum, the sample must include each tract or zone that has a minority population (minority census tract) that is equal to or above the total percentage of all minorities within the service

area. In addition, at least 10 percent of alt the census tracts or traffic analysis zones in the service area should be monitored.

- (b) Inventory the transit service provided in the selected sample areas.
  - (c) Assess the performance of each route operating within the selected areas for each of grantee's service standards and policies.
  - (d) Compare the transit service provided to minority areas to the recipient's service policies and standards, and review and take action in all cases in which the service to minority areas do not meet the stated service policy or standards of the grantee.
  - (e) Compare the average performance for each route in the transit system to the grantee's service policies and standards, and take action on the observed differences.
- (2) Quality of Service Methodology. This methodology will determine whether the quality of service is consistent among different user groups and the degree to which transit service is responsive to minority needs. Recipients shall utilize the following methodology to assess equity in the quality of service provided:
- (a) Identify an appropriate number of minority census tracts or traffic analysis zones and a corresponding number of comparable nonminority census tracts or traffic analysis zones. The number of census tracts or analysis zones selected should be based on the population within the service area. For service areas with a population of 200,000 or below, at least three minority and three nonminority census tracts or traffic analysis zones must be selected. In areas with a population of over 200,000, the recipient must select 10 or more minority and 10 or more nonminority census tracts or traffic analysis zones.
  - (b) Conduct a survey of transit riders in the identified areas to determine travel patterns (work trip destination) and opinions on the transit service provided. Census data may also be used to model transit travel patterns in an urbanized area.
  - (c) Summarize the travel patterns of transit users in the selected census tracts or traffic analysis zones, and summarize comments or opinions about the transit service.
  - (d) Using transit travel time and fare matrices, and/or other appropriate indices, information must be monitored for the top three most-traveled destinations. All values below emanate from the centroid of selected census tracts or traffic analysis zones to the centroid of destination:
    - 1 Average peak hour travel time to destination;
    - 2 Number of transfers/bus stops before reaching destination;
    - 3 Total cost of trip to destination; and



4 Cost per mile of trip to destination.

- (e) In using this methodology, the grantee must compare the quality of service of minority census tracts or traffic analysis zones with nonminority census tracts or traffic analysis zones, and take action on the disparities.

3. UMTA FOLLOWUP REVIEW OF GRANTEE'S MONITORING PROCEDURES. UMTA, as appropriate, will schedule reviews of grantees to determine if requirements as specified in Chapter V of this circular are being implemented. The followup reviews require detailed and comparative information from the grantee regarding transit services and benefits provided to minority vs. nonminority communities. All requests made by UMTA for this information will be communicated in writing to the grantee. UMTA will also allow sufficient time for data to be gathered and analyzed by the grantee. For transit providers, the data requested by UMTA should have been previously collected as a part of the local transportation process, and periodically reviewed by the transit provider in order to monitor adherence with service policies or standards. UMTA expects that most transit operators in service areas over 200,000 in population will include or reference this information in updates to local short-range transit plans.

UMTA will also schedule site visit(s) as part of its followup review to substantiate the information provided, conduct interviews, and gather and verify other information necessary to determine compliance with Title VI.

CHAPTER V  
TYPES OF COMPLIANCE REVIEWS

1. GENERAL. This chapter describes the manner in which UMTA will monitor compliance of applicants, recipients, and subrecipients with Title VI of the Civil Rights Act of 1964, as required by DOJ and DOT regulations. Included in this chapter are descriptions of the type of compliance reviews UMTA will conduct. Also included are criteria and procedures UMTA will use in its review process to determine compliance with the UMTA Title VI program. Applicants, recipients, and subrecipients may use this chapter to develop local programs to monitor compliance with Title VI programs in order to fulfill their obligations under the regulations.
2. COMPLIANCE REVIEWS. The DOJ and DOT regulations require UMTA to perform pre- and post-award compliance reviews. These compliance reviews will be conducted by designated civil rights staff in UMTA Headquarters and/or Area Offices, as appropriate.
  - a. Application Reviews. Application reviews are conducted in response to applications for assistance authorized under any section of the UMT Act. The purpose of these reviews is to determine if the benefits of a proposed project are distributed in a nondiscriminatory manner. Application reviews will consider:
    - (1) The information provided in response to the general requirements listed in Chapter III (page III-1);
    - (2) The information provided by applicants in service areas with populations over 200,000 in response to the program-specific requirements listed in Chapter III (page III-3);
    - (3) The findings and recommendations of Title VI reviews previously conducted by UMTA or the applicant-recipient and the corrective actions undertaken as a result of those reviews; end
    - (4) Other information deemed necessary and appropriate by UMTA as well as information submitted by the recipient in support of the application, including its own Title VI assessment.
  - b. Post Approval Reviews. UMTA will conduct post-approval reviews as a part of its ongoing monitoring responsibilities. These reviews will be conducted at least once every 3 years. The review may be either a "desk audit" or "onsite." Although the Title VI review process is independent of the Triennial Review process, to the maximum extent possible, these post-approval reviews will be conducted in conjunction with scheduled Triennial Reviews. These reviews will consider:
    - (1) Results of the application review, including information required by the "General Reporting" and "Program-Specific" requirements (see Chapter III).
    - (2) The overall efforts made by the recipient to ensure compliance under Title VI, including any compliance reports prepared by the recipient.

- (3) If onsite, inspection of all materials pertaining to implementation of Title VI and verification that all service standards are being implemented consistent with Title VI.
  - (4) Other information that is necessary and appropriate to make a determination that the recipient or subrecipient is in compliance with Title VI.
- c. Discretionary Followup Reviews. Followup reviews will be conducted by UMTA, as appropriate, to assure that federally assisted transit services and benefits are distributed to minorities in a fair and equitable manner. Two such reviews would include, but not be limited to:
- (1) A review to determine whether a recipient is honoring its commitment represented by the certification to UMTA that it is complying with its responsibilities under Title VI; and
  - (2) A compliance review conducted in response to a specific complaint alleging discrimination. Other factors that may initiate such reviews include, but are not limited to:
    - (a) The level of assistance being provided by UMTA;
    - (b) The nature of projects being undertaken by a recipient and their impact on the minority community;
    - (c) The level and quality of transit services and benefits provided by the grantee;
    - (d) The size of the minority population <sup>within</sup> the given service areas;
    - (e) Specific problems involving service delivery to the minority community; and
    - (f) The findings of the pre- and post-award compliance reviews.

The above--mentioned reviews will be structured on a case-by-case basis in order to assess compliance by the recipient with these requirements. The UMTA compliance review report shall contain statements of fact and recommendations, including corrective actions deemed necessary and appropriate.

3. COMPLIANCE DETERMINATION. A compliance determination will be based on an analysis of information submitted under Chapter III, as well as a review and an analysis of all data gathered and findings made as a result of a "desk audit" or "onsite" review. In addition, analysis of all other information submitted in response to specific requests by UMTA will be considered. In making a compliance determination, assessments of a recipient's actual delivery of services, as defined by its service standards, to the minority and majority communities will be the primary focus.

Failure by an applicant, recipient, or subrecipient to submit information requested by UMTA may delay completion of a compliance review thus, delaying the further consideration of a pending grant application(s).

## CHAPTER VI

### REMEDIAL ACTIONS AND ENFORCEMENT PROCEDURES

1. GENERAL. The DOJ regulation implementing Title VI of the Civil Rights Act of 1964; states that the responsibility for enforcing Title VI rests with the Federal agency extending financial assistance.

In most cases, UMTA will be able to meet this responsibility by monitoring compliance with the requirements in this circular, and if necessary, through voluntary remedial actions which bring applicants, recipients, or subrecipients into compliance. Failing this, UMTA is required to initiate enforcement actions.

This chapter describes the procedures and requirements for initiating remedial actions in cases of noncompliance or probable noncompliance with Title VI; and summarizes the enforcement procedures UMTA will follow in those instances when a grant applicant, recipient, or subrecipient refuses or fails to comply voluntarily with remedial measures.

2. REMEDIAL ACTIONS. Remedial actions are required in cases where UMTA has determined that an applicant, recipient, or subrecipient is in noncompliance or probable noncompliance with the requirements in this circular, or where UMTA has found evidence of discrimination prohibited under Title VI.

Remedial actions refer to specific tasks which must be undertaken by e applicant, recipient, or subrecipient. In setting remedial actions, UMTA intends for the applicant, recipient, or subrecipient to agree to a voluntary plan of action to correct deficiencies and ensure continued compliance with Title VI. In cases where UMTA determines that remedial action is necessary and appropriate to ensure compliance with Title VI, the following procedures will be adhered to:

- a. Letter of Finding/Remedial Action Plan. Where UMTA has conducted a compliance review, or other review, audit, or complaint investigation, and has made a finding of noncompliance or probable noncompliance, UMTA will send a Letter of Finding to the grant applicant, recipient, or subrecipient identifying the deficiencies observed. This Letter will request the grant applicant, recipient, or subrecipient to submit a Remedial Action Plan for correcting the deficiencies cited in the Letter of Finding, and recommend voluntary corrective actions deemed necessary and appropriate by UMTA.
- b. Applicant/Recipient Response. Within 30 days of the receipt of the UMTA Letter of Finding, the applicant, recipient, or subrecipient must submit a Remedial Action Plan and, if necessary, sufficient reasons and Justification for UMTA to reconsider any of its findings or recommendations. The Remedial Action Plan shall:

- (1) List all corrective actions accepted by the applicant, recipient, or subrecipient;

- (2) Describe how the corrective actions will be implemented;
- (3) Include a written assurance that the applicant, recipient, or subrecipient will implement the accepted corrective action(s) and has the capability to implement the accepted corrective action(s) in the manner discussed in the plan; and
- (4) All requests for reconsideration shall:
  - (a) State which of UMTA's findings or recommendations the applicant, recipient, or subrecipient requests UMTA to reconsider;
  - (b) Provide a justification for the request to reconsider, including any evidence or information supporting such a request; and
  - (c) Include a written assurance that on the basis of the requested reconsideration, the applicant, recipient, or subrecipient is or otherwise will come into in compliance with Title VI .

- c. Final Remedial Action Plan. Within 30 days after receiving the grantee's response, UMTA shall review the submitted Remedial Action Plan and any request for reconsideration and decide what remedial action(s) are necessary and appropriate to bring the applicant, recipient, or subrecipient into compliance. If necessary, before making a decision, UMTA may conduct a site visit to substantiate information or statements contained in the grantee's response.

UMTA shall issue its decision, including its findings and recommendations, as part of a Final Remedial Action Plan. The Final Remedial Action Plan will be sent to the applicant, recipient, or subrecipient for review and consent. Consent infers that the applicant, recipient, or subrecipient agrees-to initiate action(s) specified in the plan.

The applicant, recipient, or subrecipient has 15 days to agree or disagree with the Final Remedial Action Plan.

If an applicant, recipient, or subrecipient agrees, UMTA will amend its Title VI finding to probable compliance or full compliance, and a letter stating the amended compliance determination will be sent to the grantee.

If an applicant, recipient, or subrecipient does not agree with the Final Remedial Action Plan, it must submit a written statement of its reasons for not agreeing to the remedial actions contained in the plan. Under such circumstances the applicant, recipient, or subrecipient will be held in noncompliance, and a meeting will be scheduled with the applicant/recipient/subrecipient within 30 days to resolve the stated disagreements. In addition, the Departmental Director of Civil Rights shall be requested to notify the DOJ Assistant Attorney General, Civil Rights Division, of the finding of noncompliance resulting from the compliance review.

3. ENFORCEMENT PROCEDURES. Enforcement action refers to an action taken by DOT to suspend, terminate, refuse to grant or continue Federal financial assistance to an applicant, recipient, or subrecipient. Enforcement action is appropriate in cases where all means of informal resolution have failed to get the grantee into compliance.

If there appears to be a failure or threatened failure to comply and if the noncompliance or threatened noncompliance cannot be corrected by informal means, the applicant/recipient/subrecipient may be subjected to suspension, termination, refusal to grant or to continue Federal financial assistance, or any other sanctions authorized by law. Such other sanctions may include, but are not limited to:

- a. A reference to DOJ with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Civil Rights Act of 1964), or any assurance or other contractual undertaking;
- b. Any applicable proceeding under State or local law; and
- c. An action to suspend or terminate or to refuse to grant or continue Federal financial assistance, limited to the particular political entity, or part thereof, or other applicant, recipient, or subrecipient as to which such a finding has been made, and shall be limited in its effect to the particular program, or part thereof, in which noncompliance has been so found.

In accordance with the DOJ "Guidelines for the Enforcement of Title VI" (28 CFR Part 50.3), no order suspending, terminating, or refusing to grant or continue Federal financial assistance shall become effective until the following steps have been taken:

(1) Departmental Action.

- (a) The Secretary has advised the applicant, recipient, or subrecipient of its failure to comply and has determined that compliance cannot be secured by voluntary means;
- (b) There has been an express finding on the record, after opportunity for hearing, of a failure of applicant, recipient, or subrecipient to comply with the Title VI requirements imposed by the Title VI regulation;
- (c) The action to be taken against the applicant, recipient, or subrecipient must be approved by the Secretary, in which case the Secretary may vacate it, or remit it or mitigate any sanction imposed; and
- (d) The Secretary has allowed 30 days to expire after filing a full written report of the circumstances and the grounds for such action with the committee of the House and the committee of the Senate having legislative jurisdiction over the program, involved.

- (2) Other Means Authorized by Law. No action to effect compliance with Title VI of the Civil Rights Act of 1964, by any other means authorized by law, shall be taken by DOT until:

- (a) The Secretary has determined that compliance cannot be secured by voluntary means;
- (b) The applicant/recipient/subrecipient has been notified of its failure to comply and of the action to be taken to effect compliance; and
- (c) The expiration of at least 10 days from the mailing of such notice to the applicant/recipient/subrecipient. During this period of at least 10 days, additional efforts shall be made to persuade the applicant/recipient/subrecipient to comply with the Title VI regulation and to take corrective action as may be appropriate.

Any final decision by an official of DOT other than the Secretary personally, which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this chapter or Title VI, shall promptly be transmitted to the Secretary personally, who may approve such decision, may vacate it, or remit or mitigate any action imposed.

- (3) Post-Termination Proceedings. Any applicant, recipient, or subrecipient adversely affected by the contents of a final order shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this circular and provides reasonable assurance that it will fully comply.
  - (a) Any applicant, recipient, or subrecipient adversely affected by an order may at any time request the Secretary to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant, recipient, or subrecipient has met the requirements. If the Secretary determines that those requirements have been satisfied, the Secretary shall restore eligibility.
  - (b) If the Secretary denies any such request, the applicant, recipient, or subrecipient may submit a request for a hearing in writing, specifying why it believes the Department to have been in error. The request shall be given an expeditious hearing, with a decision on the record, in accordance with the rules or procedures issued by the Secretary. The applicant, recipient, or subrecipient will be restored to such eligibility if it proves at such a hearing that it has satisfied the requirements.

While post-termination proceedings are pending, the sanctions imposed by the final order shall remain in effect.



## CHAPTER VII

### TITLE VI DISCRIMINATION COMPLAIN

1. GENERAL. This chapter provides information on the UMTA procedures for filing complaints alleging discrimination on the basis of race, color, or national origin. Applicants/recipients/subrecipients are encouraged to adopt separate procedures for local disposition of Title VI complaints which are consistent with these guidelines.

Any person who believes that he or she, individually, or as a member of any specific class of persons, has been subjected to discrimination on the basis of race, color, or national origin may file a written complaint with UMTA or the Secretary of Transportation. A complaint must be filed within 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary.

UMTA recommends that Title VI complaints be initially filed with the applicant, recipient, or subrecipient for resolution. In those cases where the complainant is dissatisfied with the resolution by the applicant, recipient, or subrecipient, the some complaint may be submitted to UMTA or the Secretary for investigation.

Unless otherwise permitted, the final determination of all Title VI complaints affecting programs administered by UMTA will be made by the Office of the Secretary, DOT.

2. SUBMISSION OF COMPLAINTS.

- a. Filing Complaints of Discrimination.

- (1) Complainants may submit written complaints to the UMTA Director, Office of Civil Rights, the UMTA Area Civil Rights Officers, and/or the Departmental Director of Civil Rights (See Appendix C).
    - (2) In cases where the complainant is unable or incapable of providing a written statement, but wishes DOT to investigate alleged discrimination, a verbal complaint of discrimination may be made to the UMTA Director, Office of Civil Rights or an UMTA Area Civil Rights Officer. The complainant will be interviewed by an UMTA civil rights official authorized to receive complaints. If necessary, the UMTA civil rights official will assist the person in converting verbal complaints to writing. All complaints must, however, be signed by the complainant or his/her representative.

- b. Complaint Format.

- (1) All complaints must be in writing and signed by the complainant or his/her representative before action can be taken. Complaints shall state, as fully as possible, the facts and circumstances surrounding the alleged discrimination.

- (2) UMTA will provide the complainant or his/her representative with a written acknowledgement that UMTA has received the complaint within 10 working days. Concurrently, UMTA will transmit the complaint to the Departmental Office of Civil Rights which will determine if the complaint has investigative merit.

c. Determination of Jurisdiction and Investigative Merit. The Departmental Office of Civil Rights, based on the information in the complaint and additional information provided by UMTA, will determine if DOT has jurisdiction to pursue this matter and whether the complaint has sufficient merit to warrant an investigation. These determinations will be made within 15 working days after the receipt of the complaint from UMTA. A complaint shall be regarded as meriting investigation unless:

- (1) It clearly appears on its face to be frivolous or trivial;
- (2) Within the time allotted for making the determination of jurisdiction and investigative merit, the party complained against voluntarily concedes noncompliance and agrees to take appropriate remedial action;
- (3) Within the time allotted for making the determination of jurisdiction and investigative merit, the complainant withdraws the complaint; or
- (4) Other good cause for not investigating the complaint exists, e.g., respondent is presently under investigation by another Federal agency.

3. REQUEST FOR ADDITIONAL INFORMATION FROM COMPLAINANT AND/OR RESPONDENT. In the event that the complainant or respondent has not submitted sufficient information to make a determination of jurisdiction or investigative merit, the Departmental Office of Civil Rights may request additional information from either party. This request shall be made within 15 working days of the receipt of the complaint by the Departmental Office of Civil Rights and will require that the party submit the information within 60 working days from the date of the original request. Failure of the complainant to submit additional information within the designated timeframe may be considered good cause for a determination of no investigative merit. Failure of respondent to submit additional information within the designated timeframe may be considered good cause for a determination of noncompliance and subject to possible enforcement action as addressed in Chapter VI of this circular.

4. NOTIFICATION OF DISPOSITION. The Departmental Director of Civil Rights shall notify within 5 days by registered Letter the complainant, partly charged, and primary recipient (if not the respondent) of the disposition:

- a. In the event of a decision not to investigate the complaint, the notification shall specifically state the reason for the decision.

- b. In the event the complaint is to be investigated, the notification shall state the grounds of DOT Jurisdiction, inform the parties that an investigation will take place, and request any additional information needed to assist the investigator in preparing for the investigation.

5. REFERRAL TO OTHER AGENCIES. When DOT lacks jurisdiction, the Departmental Director of Civil Rights shall refer the complaint to other State or Federal agencies, informing the parties of the action. For example, discrimination complaints regarding employment could be referred to the Equal Employment Opportunity Commission or to a State agency with comparable responsibility.

6. COMPLAINT INVESTIGATION.

- a. Departmental Investigation. The Departmental Office of Civil Rights may elect to conduct its own investigation of the complaint. The investigation may be conducted by "desk audit" or an "onsite" investigation. When DOT lacks jurisdiction, the Departmental Office of Civil Rights will refer the complaint to the responsible State or Federal agency, informing the complainant of this action.
- b. Referral of Complaint to UMTA. Cases determined by the Departmental Office of Civil Rights to have investigative merit may be sent back to UMTA to conduct an "onsite" investigation or may be recommended for a comprehensive Title VI review of the respondent.
- c. Priority Complaints. All incoming complaints shall be examined to determine if the discrimination alleged would be irremediable if not dealt with promptly. If such a determination is made, the complaint shall be given priority status. The processing, investigation, and determination of such complaints shall be accelerated to advance significantly the normal completion date of the process.
- d. Investigator's Preparation. Before beginning the investigation, the investigator shall send a letter of introduction, establishing the times and dates for the "onsite" investigation and interviews. This preparation shall be completed within 30 working days after the assignment has been given to the investigator, contingent upon the investigator's workload and resources.
- e. Investigative Report. A written report will be prepared by the responsible investigator at the conclusion of the investigation. This report will be reviewed by the Departmental Office of Civil Rights, for thoroughness. The investigative report will include the following:
  - (1) Summary of the complaint, including a statement of the issues raised by the complainant and the respondent's reply to each of the allegations;
  - (2) Citations of relevant Federal, State, and local laws, rules, regulations, and guidelines, etc;
  - (3) Description of the investigation, including a list of the persons contacted by the investigator and a summary of the interviews conducted; and
  - (4) A statement of the investigator's findings and recommendations.

## 7. DISPOSITION OF COMPLAINTS.

- a. Approval and Notice of Disposition. The Departmental Office of Civil Rights will approve or disapprove the findings and recommendations made by the investigator in the investigative report. The consequent disposition of the complaint will be communicated to the complainant and respondent by letter. In addition, a rationale supporting the disposition made and any recommendations to any party will be included in the letter.
- b. Informal Resolution. If the Notice of Disposition is issued and finds the respondent in noncompliance, the respondent is required to initiate voluntary remedial actions agreeable to the Departmental Office of Civil Rights (see Chapter VI, paragraph 2, Remedial Actions).
- c. Enforcement Procedure. In cases in which all required means of remedial action have failed to bring the respondent into compliance, enforcement procedures will be initiated by the Departmental Office of Civil Rights in conjunction with UMTA (see Chapter VI, paragraph 3, Enforcement Procedures).
- d. Request for Reconsideration. The respondent may request reconsideration of the Department's findings within 30 days of the Notice of Disposition. This request should include any additional information or analysis the respondent considers relevant. The Departmental Office of Civil Rights will inform the respondent of its decision to accept or reject the request within 30 days after its receipt.

In cases in which a request for reconsideration is approved, the responsible investigator will reopen the investigation and proceed to process the complaint in the same manner described above.

## CHAPTER VIII

### PUBLIC INFORMATION

GENERAL. Regulations implementing Title VI issued by DOJ and DOT require specific types of information which must be disseminated and/or made available to the public by Federal agencies and recipients of Federal assistance. This section is intended to complement the information requirements pertaining to specific programs Listed in Chapter III of this circular, by providing a general statement of the information dissemination requirements under Title VI.

1. Requirements for Federal Agencies. These Title VI regulations are to be made available to the public upon request.
2. Requirements for UWA Recipients.
  - a. Dissemination of Information to UMTA. Each recipient shall maintain records and other information and submit compliance reports and assessments as directed. This information may be made available to the public upon request.
  - b. Information to Beneficiaries and Participants. Each recipient shall make available to participants, beneficiaries, and other interested parties information regarding the recipient's Title VI program. At a minimum, this shall include the display of posters which:
    - (1) State that the recipient operates programs subject to the nondiscrimination requirements under Title VI;
    - (2) Summarize such requirements, e.g., Statement of Rights (see Appendix D);
    - (3) Explain the availability of Title VI information from the- recipient; and
    - (4) Briefly explain the procedures for filing a complaint.References to other publications containing Title VI information should also be made.  
Recipients shall also include disseminating information on complaint procedures and the rights of beneficiaries in handbooks, pamphlets, and other materials ordinarily distributed to the public by the recipient.
  - c. Multilingual Requirements. Where a significant number or portion of the population eligible to be served needs service or information in a Language other than English to participate in UMTA-assisted programs, the recipient shall take every reasonable step to provide information in appropriate languages.

APPENDIX A

URBAN MASS TRANSPORTATION ADMINISTRATION CIVIL RIGHTS ASSURANCE

The (Name of Grant Applicant/Recipient) HEREBY CERTIFIES THAT, as a condition of receiving Federal financial assistance under the Urban Mass Transportation Act of 1964, as amended, it will ensure that:

1. No person on the basis of race, color, or national origin will be subjected to discrimination in the level and quality of transportation services and transit-related benefits.
2. The (Name of Grant Applicant/Recipient) will compile, maintain, and submit in a timely manner Title VI information required by UMTA Circular 4702.1 and in compliance with the Department of Transportation's Title VI regulation, 49 CFR Part 21.9.
3. The (Name of Grant Applicant/Recipient) make it known to the public that those person or persons alleging discrimination on the basis of race, color or national origin as it relates to the provision of transportation services and transit-related benefits may file a complaint with the Urban Mass Transportation Administration and/or the U.S. Department of Transportation.

The person or persons whose signature appears below are authorized to sign this assurance on behalf of the grant applicant or recipient.

\_\_\_\_\_  
(NAME AND TITLE OF AUTHORIZED OFFICER)

DATE: \_\_\_\_\_

\_\_\_\_\_  
(SIGNATURE OF AUTHORIZED OFFICER)

APPENDIX B

DEPARTMENT OF TRANSPORTATION TITLE VI ASSURANCE

The (Title of Grant Applicant/Recipient) (hereinafter referred to as the "Recipient") HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964. (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the Department of Transportation, including (Name of Appropriate Administration), and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a) of the Regulations.

More specifically and without Limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to its (Name of Appropriate Program) :

1. That the Recipient agrees that each "program" and each "facility" as defined in subsections 21.23(s) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or materiel subject to the Regulations and made in connection with all (Name of Appropriate Program) and, in adapted form in all proposals for negotiated agreements:

The (Name of Recipient), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to this Act and the Regulations.

4. That the Recipient shall insert the clauses of Appendix B of this assurance, as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements enter into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under (Name of Appropriate Program); and (b) for the construction or use of or access to space on, over, or under real property acquired, or improved under (Name of Appropriate Program).
8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.
9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date here of to the Recipient by the Department of Transportation under the (Name of Appropriate Program) and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the (Name of Appropriate Program). The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient.

DATED: \_\_\_\_\_



---

(Name of Recipient)

by

---

(Signature of Authorized Official)

Attachments:  
Appendices A, B, and C

(APPENDIX A TO TITLE VI ASSURANCE)

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

- (1) Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- (4) Information and Reports: The contractor shall provide all information and reports required by these Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the \_(Recipient)\_ or the \_(Name of Appropriate Administration)\_ to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the \_(Recipient)\_, or the \_(Name of Appropriate Administration)\_ as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of the contractor's noncompliance with nondiscrimination provisions of this contract, the \_(Recipient)\_ shall impose contract sanctions as it or the \_(Name of Appropriate Administration)\_ may determine to be appropriate, including, but not limited to:
  - (a) withholding of payments to the contractor under the contract until the contractor complies; and/or
  - (b) cancellation, termination, or suspension of the contract, in whole or in part.

- (6) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the \_(Recipient)\_ or the \_(Name of Appropriate Administration)\_ may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the \_(Recipient)\_ to enter into such litigation to protect the interests of the \_(Recipient)\_, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(APPENDIX B TO TITLE VI ASSURANCE)

The following clauses shall be included in any and all deeds effecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)

NOW, THEREFORE, the Department of Transportation, as authorized by law, and upon the condition that the (Name of Recipient) will accept title to the lands and maintain the project constructed thereon, in accordance with (Name of Appropriate Legislative Authority), the Regulations for the Administration of (Name of Appropriate Program) and the policies and procedures prescribed by (Name of Appropriate Administration) of the Department of Transportation and, also in accordance with and in compliance with all requirements imposed by or pursuant to 'Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the (Name of Recipient) all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto (Name of Recipient) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the (Name of Recipient), its successors and assigns.

The (Name of Recipient), in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over or under such lands hereby conveyed [,] [and]\* (2) that the (Name of Recipient) shall use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1954, and as said Regulations may be amended, and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land, and the above described

land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction.\*

- \* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

(APPENDIX C TO TITLE VI ASSURANCE)

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the \_(Name of Recipient)\_ pursuant to the provisions of Assurance 7(a).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for herself/himself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination of Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]\*

That in the event of breach of any of the above nondiscrimination covenants, \_(Name of Recipient)\_ shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [licenses, lease, permit, etc.] had never been made or issued.

[Include in deeds]\*

That in the event of breach of any of the above nondiscrimination covenants, \_(Name of Recipient)\_ shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of \_(Name of Recipient)\_ and its assigns.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by \_(Name of Recipient)\_ pursuant to the provisions of Assurance 7(b).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for herself/himself, his/her personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in case of deeds, and leases add "as a covenant running with the land") that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing services there on, no person on the grounds of race, color, or national origin shall be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination, and (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the

premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, lessee, permits, etc.]\*

That in the event of breach of any of the above nondiscrimination covenants, \_(Name of Recipient)\_ shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc:] had never been made or issued.

[Include in deeds]\*

That in the event of breach of any of the above nondiscrimination covenants, \_(Name of Recipient)\_ shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of \_(Name of Recipient)\_ and its assigns.

- \* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purpose of Title VI of the Civil Rights Act of 1964.

APPENDIX C

DIRECTORY

DEPARTMENT OF TRANSPORTATION

AND

URBAN MASS TRANSPORTATION ADMINISTRATION OFFICES

Headquarters

Departmental Director of Civil Rights  
Office of the Secretary  
Department of Transportation  
Seventh Street, SW. Room 10215  
Washington, D.C. 20590

Director, Office of Civil Rights  
Urban Mass Transportation Administration  
400 Seventh Street, SW., Room 7412400  
Washington, D.C. 20590

AREA CIVIL RIGHTS OFFICES

EASTERN AREA  
(Regions 1 and 2)

Urban Mass Transportation Administration  
Transportation Systems Center, Suite 920  
Kendall Square, 55 Broadway  
Massachusetts 02142

Urban Mass Transportation Administration  
26 Federal Plaza, Suite 14-110  
New York, New York 10278 Cambridge,

SOUTHEASTERN AREA  
(Regions 3 and 4)

Urban Mass Transportation Administration  
400 Seventh Street, SW., Room 7412  
Washington, D.C. 20580

CENTRAL/MID-WESTERN AREA  
(Regions 5, 6, and 7)

Urban Mass Transportation Administration  
300 South Wacker Drive, Suite 1703  
Chicago, Illinois 60606

Urban Mass Transportation Administration  
6301 Rockhill Road, Suite 100  
Kansas City, Missouri 64131

WESTERN AREA  
(Regions 8, 9, and 10)

Urban Mass Transportation Administration  
Federal Office Building  
1961 Stout Street, Room 520  
Denver, Colorado 80294

Urban Mass Transportation Administration  
3142 Federal- Building  
915 Second Avenue  
Seattle, Washington 98174



## APPENDIX D

### APPLICATION OF TITLE VI REQUIREMENTS TO FEDERAL FINANCIAL ASSISTANCE OF THE URBAN MASS TRANSPORTATION ADMINISTRATION

#### Examples: Nondiscrimination on UMTA Projects

The following examples, without being exhaustive, illustrate the application of the nondiscrimination provisions of this part to projects receiving Federal financial assistance under the programs of certain Department of Transportation operating administrations.

1. Any person who is, or seeks to be, a patron of any public vehicle which is operated as a part of, or in conjunction with, a project shall be given the same access, seating, and other treatment with regard to the use of such vehicle as other persons without regard to their race, color, or national origin.
2. No person who is, or seeks to be an employee of the project sponsor or lessees, concessionaires, contractors, licensees, or any organization furnishing public transportation service as a part of, or in conjunction with, the project shall be treated less favorably than any other employee or applicant with regard to hiring, dismissal, advancement, wages, or any other conditions and benefits of employment, on the basis of race, color, or national origin.
3. No person or group of persons shall be discriminated against with regard to the routing, scheduling, or quality of transportation service furnished as a part of the project on the basis of race, color, or national origin. Frequency of service, age and quality of vehicles assigned to routes, quality of stations serving different routes, and location of routes may not be determined on the basis of race, color, or national origin.
4. The location of projects requiring land acquisition and the displacement of persons from their residences and businesses may not be determined on the basis of race, color, or national origin.

## **Title VI, Environmental Justice, and Limited English Proficiency Analysis**

- 1) What service changes does the provider propose? Please describe the nature of the change, the bases or rationale for the change, the modes of service impacted, and the communities affected by the change.**

Service changes include, but are not limited to, route extensions, route deletions, route additions, changes in hours or days of operation, changes due to contracting out transit services, and changes in headways and fares.

- 2) What are the impacts of the service changes on minority and/or low income communities?**

Please classify the bus and/or rail lines subject to the proposed changes as either “minority” or “non-minority” routes. Circular 4702.1 defines a minority route as “a route that has at least 1/3<sup>rd</sup> of its total route mileage in a census tract(s) or traffic analysis zone(s) with a percentage of minority population greater than the percentage of minority population in the transit service area.” The circular also provides definitions for minority individuals and communities.

Please also determine whether the bus and/or rail lines serve predominantly low-income communities. “Low income” is defined as a person whose household income (or in the case of a community or group, whose median household income) is at or below the U.S. Department of Health and Human Services poverty guidelines. A route that serves predominantly low income communities is one that has at least 1/3<sup>rd</sup> of its total route mileage in a census tract(s) or traffic analysis zone(s) with a percentage of the low income population greater than the percentage of the low income population in the transit service area.

- 3) What are the transit alternatives available for riders who would be impacted by proposed service changes?**

Please compare the travel time, number of transfers, and cost of the trip on the route subjected to the change with travel times, number of transfers, and costs of the alternate routes available to riders should the original service be reduced or eliminated.

- 4) If the provider believes that the service changes will have an adverse and disproportionate impact on low income and/or minority riders and communities, what alternatives to the proposed changes were considered?**

If the provider identified alternatives that would have less adverse or disproportionate effects on protected groups, but did not select these alternatives, please provide a rationale for why these alternatives were not chosen.

- 5) If the provider believes that the service changes will have an adverse and disproportionate impact on low income and/or minority riders and communities, what measures does it plan to take to avoid, minimize and/or mitigate these impacts?**

## **Title VI, Environmental Justice, and Limited English Proficiency Analysis**

These measures could include providing offsetting benefits and opportunities to improve public transportation to the communities, neighborhoods, and individuals affected by the original service changes

- 6) (For fare increase). What method was utilized to determine the type of increase (flat or percentage), the amount of the increase, and the fare instruments affected, or to be affected, by the change?**

Please provide an explanation of how the proposed fare increases will achieve the provider's intended goals.

- 7) What mode(s) of service were, or will be, affected by the fare increase?**
- 8) What steps does the provider plan to take to determine the impacts of the fare increase on each major protected group in the service area? What impacts, if any, were identified? Were alternatives to avoid or substantially limit the impacts considered?**

If a decision is made to raise fares on one particular transit mode, but not on others, or if fares are raised on different modes by different amounts or by different percentages, please provide a demographic breakdown of the ridership on the different modes and analyze the impact of the fare increases on the communities in question.

- 9) Does the provider have a process for soliciting and considering public comment prior to the service changes/fare increases? How is the process documented?**

Please provide FTA with a copy of the document that describes this process.

- 10) What steps does the provider plan to take to disseminate information regarding the proposed service changes/fare increases to all protected groups?**

Methods used to disseminate information should include, but are not limited to, public notices, public hearings, other formal or informal public discussions, presentations and meetings.

- 11) Does the provider believe that it is necessary to disseminate information on the service changes/fare increases that is accessible to Limited English Proficient persons? If so, what steps to provide information in languages other than English does the provider propose?**

Executive order 13166 requires a recipient to evaluate how a LEP person's inability to understand oral and written information provided by and about a federally assisted program or activity might impact his or her ability to participate in or benefit from that program or activity. When making this determination, consider the number or proportion of LEP persons in the eligible service population, the frequency which LEP individuals come into contact with the program, the importance of the service provided by the program and the resources available to the recipient.